

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

ANNA LOU BOLLINGER
HELEN R. HOBSON

**Under the International Claims Settlement
Act of 1949, as amended**

Claim No. G-3677

Decision No. G-2055

Appeal and objection from a Proposed Decision entered on March 26, 1980. No Oral Hearing Requested.

Hearing on the Record held on **APR 01 1981**

FINAL DECISION

This claim in the amount of \$523,000.00 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended, is based upon the loss of a factory and securities located in Frankfurt a.d. Oder, German Democratic Republic.

By its Proposed Decision dated March 26, 1980, the Commission denied this claim on the ground that there was no evidence submitted to establish that the property had been nationalized, expropriated or otherwise taken by the German Democratic Republic on or after July 1, 1948, which was the earliest date that the property or any interest therein could be considered as being owned by a United States citizen. By letter dated April 1, 1980, claimant, ANNA LOU BOLLINGER objected to the findings of the decision on the grounds that she was in fact a part owner of the property on the date of loss, as well as being a United States national on that date. In addition, she objected on the grounds that since the German Democratic Republic was not an official government until October 7, 1949, the property could not have been taken until that date.

Section 603 of Title VI of the Act limits the Commission's jurisdiction as follows:

"A claim shall not be favorably considered under section 602 of this title unless the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss, and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission."

Claimant's mother, Nellie Dehne acquired through inheritance a 1/3 interest in an agricultural machine factory located in Frankfurt/Oder. According to claimant her mother died on July 1, 1948 as a German citizen. Claimant, born a United States citizen, inherited 1/2 of her mother's estate.

Claimant argues that even if the property were taken prior to July 1, 1948, she, as a prospective heir of her mother, had some type of an indirect ownership interest in the property. This, however, is not the law, either of Germany or of the United States. Only upon the death of an individual are his or her heirs established. Prior to that time an owner of property has a free right of disposition of property without requiring any consent from one whom might some day become the owner's heir.

Claimant further contends that the German Democratic Republic did not come into existence until 1949 and therefore could not have taken property prior thereto. The Commission has held that following the cessation of hostilities of World War II, Germany was, in principle, governed by four power control, but in practice, the area presently constituting the German Democratic Republic was administered by the Soviet Military Administration in conjunction with the German Economic Commission formed in 1947; the Socialist Unity Party; and the state and municipalities of the former German Reich. The Commission has held that the German Democratic Republic is responsible as a successor government for actions constituting a nationalization or expropriation of property taken by any part of this combined authority. (Claim of International Telephone and Telegraph Corporation, Claim No. G-2401, Decision No. G-3164.) To hold otherwise would lead to the conclusion that

where property was in fact expropriated between the end of World War II and October 1949, such expropriation was at the hands of some totally different state for which the German Democratic Republic does not bear legal responsibility.

The Commission has reviewed the file to see whether there is any basis in the record for it to conclude that the date of loss may have occurred after July 1, 1948. The claimant states on the claim form that in April 1945 the property was confiscated and dismantled and further states that it was confiscated under Decree #124 in October 1945. This appears to be supported by information received through the Commission's own investigation from the Equalization Office in Hamburg, which reported that the factory was expropriated in stages between April and October 1945. The Commission is aware that the language of SMAD decree #124 uses the term "sequestration" which implies something less than a final confiscation of property. However, even conceding that sequestration under SMAD order #124 might not constitute a final confiscation, the Commission concludes that the record does not support a finding of a date of taking after July 1, 1948, for two reasons. The record indicates that the factory was dismantled in April 1945. The Commission is aware that during April 1945 as Soviet forces moved West of the Oder river in the final stages of the war, it was the practice of Soviet forces to immediately dismantle factories and to immediately ship to the Soviet Union, inventory, machinery and actual dismantled structures. The Commission has held that such action by Soviet military forces for the sole benefit of the Soviet Union occurring before August 1945 are not the responsibility of the German Democratic Republic but even if the Commission had held otherwise, this physical loss of the assets in the present claim occurred when the property was not yet owned by a United States citizen.

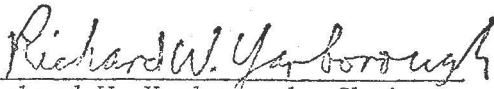
Presumably some assets including the land, if owned by the company, would have survived such initial dismantling. The Commission has no basis in the record to determine to what extent

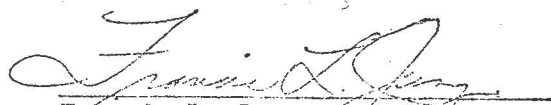
any such assets did remain. As to these assets, even if sequestration under SMAD order #124 is not considered as a final confiscation, the Commission still does not have a basis to find a taking after July 1, 1948. SMAD order #124 expired as of April 1948. Property sequestered under SMAD order #124 was governed by order #64 of the Soviet Military Administration which ordered that previously sequestered property be immediately turned into people's property or if improperly sequestered, be returned to the rightful owners. There is no evidence that any of the assets here involved were returned to the rightful owners. So even if action under SMAD order #124 did not constitute a final confiscation it appears that such final confiscation would have occurred pursuant to SMAD order #64 issued on April 17, 1948 and therefore the Commission has no basis to find that the property was taken at a time when it was owned by a United States national.

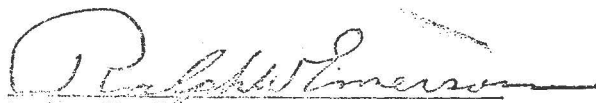
Therefore the Commission must affirm its original denial as its final determination on this claim.

Dated at Washington, D.C.
and entered as the Final
Decision of the Commission.

APR 01 1981


Richard W. Yarborough, Chairman


Francis L. Jung, Commissioner


Ralph W. Emerson, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on APR 1 1981


Francis T. Matson
Executive Director

FOREIGN CLAIMS SETTLEMENT COMMISSION
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IN THE MATTER OF THE CLAIM OF

ANNA LOU BOLLINGER
HELEN R. HOBSON

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Claim No. G-3677

Decision No. G-2055

PROPOSED DECISION

This claim in the amount of \$523,000.00 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), is based upon the loss of an agricultural machinery factory located in Frankfurt/Oder, German Democratic Republic, and shares of stock.

The record indicates that claimants, ANNA LOU BOLLINGER and HELEN R. HOBSON, became United States citizens on February 6, 1922 and in 1956, respectively.

Section 603 of Title VI of the Act limits the Commission's jurisdiction as follows:

"A claim shall not be favorably considered under section 602 of this title unless the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss, and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission."

At the time of filing, claimants indicated that their mother Nellie Dehne, a German citizen, became a partial owner of the subject real property at the death of her husband in 1940. In addition, she had complete ownership of 9,000 reichsmarks worth of securities of various companies which were not related to the subject factory.

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Claimant asserts that the factory was confiscated in 1945, and that the securities were lost in 1945 when her mother fled from Soviet Occupation of Frankfurt/Oder. The Commission on its own has investigated this claim to determine whether the factory may have been taken at a date after 1948 when an interest would first have been owned by a United States national. The Commission's investigation, however, confirms the confiscation of the factory between April and October 1945.

Therefore, based upon the foregoing, the Commission finds that the claimants have failed to establish that property was nationalized or otherwise taken by the German Democratic Republic at a time when it was owned by a United States citizen, as required for a claim to be found compensable under the Act.

For the above cited reasons, the claim must be and hereby is denied.


G-3677

The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

Dated at Washington, D.C.
and entered as the Proposed
Decision of the Commission.

MAR 26 1980

For Presentation to the Commission


by David H. Rogers, Director
German Democratic Republic Claims
Division

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, a Final Decision based upon the Proposed Decision will be issued upon approval by the Commission any time after the expiration of the 30 day period following such service or receipt of notice. (FCSC Reg., 45 C.F.R. 531.5 (e) and (g), as amended.)